

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

ROSEMARIE KELLY, Personal Representative of  
the Estate of Christiaan Kelley, Deceased,

Plaintiff,

No. 06-CV-13189

v.

Hon. John Corbett O'Meara

CITY OF SOUTHFIELD, *et al.*,

Defendants.

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**ORDER OF REMAND AS TO COUNTS II AND III**

On July 6, 2006, Plaintiff filed her complaint in state court, setting forth three counts: a violation of her decedent Christiaan Kelley's 42 U.S.C. § 1983 rights, and state tort actions for gross negligence and wrongful death. On July 10, 2006, Defendants were served with Plaintiff's complaint. On July 13, 2006, all Defendants joined removing the suit to federal court.

Count I of Plaintiff's complaint is cognizable in this court pursuant to 28 U.S.C. § 1331. Counts II and III, however, arise under state law. Pursuant to 28 U.S.C. § 1367(c), a district court may decline to exercise supplemental jurisdiction over state law claims raised in federal question cases. See United Mine Workers v. Gibbs, 383 U.S. 715 (1966); Padilla v. City of Saginaw, 867 F. Supp. 1309 (E.D. Mich. 1994). Because Plaintiff does not assert diversity jurisdiction under 28 U.S.C. § 1332, this court declines to exercise supplemental jurisdiction over Counts II and III.

Accordingly, it is hereby **ORDERED** that Counts II and III of Plaintiff's Complaint are **REMANDED** to state court.

Date: August 07, 2006

s/John Corbett O'Meara  
United States District Judge

Certificate of Service

I hereby certify that a copy of this Order was served upon the attorneys and/or parties of record by electronic means or U. S. Mail on August 07, 2006.

s/William J. Barkholz  
Courtroom Deputy Clerk